



DEPARTMENT OF STATE

Washington, D.C. 20520

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MEMORANDUM

October 20, 1982

TO : IG Participants

SUBJECT : IAEA Reassessment

The attached draft strategy paper was prepared in response to instructions issued at the IG meeting on October 15. It is not yet a finally cleared State document. Comments will be welcomed at the October 21 meeting.

Attachment:

As Stated

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SECRETIAEA REASSESSMENTBackground

The IAEA plays a role critical to U.S. national security interests by the application of its system of safeguards designed to detect diversion of civil nuclear material to weapons purposes in non-nuclear weapon states. For all the defects of the safeguards system, no ready alternative exists. U.S. national security interests in the IAEA make that Agency somewhat unique among agencies in the UN system.

The rejection of Israeli credentials at the September IAEA General Conference demonstrates the increasing tendency of G-77 states to bring political issues to this agency. Not only does the result have repercussions through the entire UN system, it also undermines the effectiveness of the Agency in carrying out its basic nuclear safeguards functions. Unless this tendency can be reversed the utility of the IAEA to the U.S. will be significantly diminished.

Developing an alternative to the Agency would be very costly to the U.S. However, DOE is undertaking a study of alternatives so that our options can be better understood.

This paper seeks to define near term steps that, if taken by the Agency and its members, would give concrete evidence of resolve to reverse current destructive trends.

Objectives

To resolve the Israeli credentials issue; to ensure the process of reducing politicization in the IAEA is supported by both the Secretariat and a majority of member states. There must be clear commitments to these objectives and some concrete steps in these ends before the U.S. resumes full participation in the Agency. If we cannot achieve these objectives by working within the IAEA context, we should pursue remedies outside the framework of the Agency.

Steps

The immediate concrete steps we need to take before the U.S. resumes participation in IAEA activities are:

1. Acceptance of Israeli credentials by the UNGA. If we do not succeed on credentials there, the participation of the U.S. in the UN system is likely to undergo fundamental reevaluation. This would affect our relationship with the IAEA in unpredictable ways. This memorandum assumes that Israel will continue to participate in the UNGA.

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2. Circulation of a document in the IAEA setting forth the proper, limited grounds for review of credentials under Rule 27 of the IAEA General Conference Rules of Procedure.

3. Circulation of a document by the Secretariat indicating that the ruling on voting procedures was in error, eliminating any precedential impact of that ruling (follow-up on the Blix and Herron memoranda.).

4. Obtain Secretariat commitment to take concrete steps towards reducing politicization in the conduct of Agency business (follow-up to Blix memorandum).

5. Obtain agreement of key member states to join in vigorous efforts to reduce politicization (follow-up to WEOG letter).

DISCUSSION

1. Credentials and Procedures

a. Israeli Participation.

There were two actions leading up to the U.S. walkout which triggered our opposition: the erroneous procedural ruling and the illegal use of a credentials challenge to deny Israel's right to participate in the General Conference. However, the General Conference is over and there is no way to change these events. The next General Conference is not until the fall of 1983 and credentials are not required for participation in other meetings (Israel is not a member of the Board of Governors).

We have put aside for the time being convening a special Board of Governors meeting or seeking an opinion from the International Court of Justice on the legality of the actions at the General Conference.

The Israeli credentials issue is imminent in the current UNGA. Assuming that Israeli credentials are accepted, we can take the position that states have revised their thinking on this matter.

b. Procedural Precedent

IAEA Legal Adviser Herron has written a memorandum on the proceedings at the end of the General Conference which resulted in the rejection of the Israeli delegation's credentials. He states the General Conference President's ruling permitting Madagascar to vote, based on the advice of the Legal Adviser, was not in accordance with UN General Assembly practice. He goes on to say that, in view of the circumstances, the proceedings of the General Conference should not be treated as a precedent.

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We should seek to have the Secretariat circulate an appropriate document indicating that the ruling on voting procedures was not in accord with UN practice and should not be considered precedent. We should try to arrange for circulation of this document to appear to be a Secretariat, not a U.S., initiative.

Building on the opening in Herron's memo proposing certain possible future steps to remedy procedural difficulties including a rule change, we should look into the possibility of establishing a "Bureau" or "Rules Committee". This can be pegged directly to the precedent in other UN bodies (ILO) that is now being studied by State/L and State/IO.

2. Secretariat Steps to Reducing Politicization

In trying to remedy the problems plaguing the Agency, the Secretariat should concentrate on the procedural issues over which it has significant influence, and which can be addressed in the near term. In addition to these steps suggested above, we should work to exploit the openings given to us by Blix in his memorandum in which he states that the Secretariat should facilitate a positive outcome of the reassessment. He says that efforts should be made to protect specialized agencies from being encumbered by extraneous political controversy. He acknowledges problems in the safeguards department and attributes them to "growing pains". He goes on to say that "several steps could be taken in future to ensure that business is handled expeditiously and in accordance with the rules."

Blix is planning to distribute his memorandum widely. Its circulation as an Agency document would be a concrete indication of the Secretariat's commitment to work with us to redirect the Agency to its statutory purposes. In addition, Blix could make these same points in a special report to the UNGA.

The Director-General could agree that he will convene a special working group composed of selected members (with representatives from the WEOG, Socialist bloc and G-77) to come up with a series of recommendations as to how the Agency could be assisted in efforts to concentrate on its statutory tasks. Such a proposal could be circulated by the Director-General in advance of the February Board meeting.

3. Member State Steps Toward Reducing Politicization

The member states should address the problem areas that are disrupting the Agency's work. This effort should commence before the end of November. The U.S. would:

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a) Obtain agreement from the WEOGs at the political level to work with us on steps to return the Agency to the principles set out in the Agency's Statute.

b) The WEOGs should then organize a meeting with the Soviets to develop a common line on how this should be done.

c) Following this, there should then be a small meeting (10 countries) of some of the WEOGs, the Soviets, the G-77 chairman (Mexico) and a few, selected G-77 members to work out a common line that would be pursued in the Agency. That meeting could be held on neutral ground in late 1982.

d) The results of this effort, if successful, could be communicated to the Agency Secretariat prior to the February Board meeting for circulation to all members and in some manner formalized at the February Board meeting.

Further Step

If agreement cannot be reached on a common line in the IAEA, and if problems related to Israeli participation in other specialized UN agencies are not satisfactorily resolved, we or the WEOG should consider calling for a major international reevaluation of the role and continuing viability of the IAEA and perhaps other specialized UN agencies. The elements of the evaluation for the IAEA could include need and utility; major objectives (technical and political); organization; membership; and other essential characteristics (e.g., relationship to the UN system). There need not be any specific outcome of such an evaluation. It could serve to clear the air and it could also be a vehicle to reach agreement on a set of principles for the conduct of IAEA business. Such a step (calling for the exercise) would have to be agreed during early consultations if it is to be made effectively with minimum acrimony.

Alternative Scenario

If we do not succeed in achieving the objectives we seek, the U.S. should be in a position to pursue alternatives to the IAEA and its safeguards system. An alternative safeguards system should be investigated simultaneously in order both to be prepared for this eventuality and to underscore the seriousness of our reassessment. (DOE is preparing a separate paper on alternatives to the IAEA.)

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